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9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 STANDARD FABRICS
13 INTERNATIONAL, INC., a California
14 Corporation,

15 Plaintiff,

16 vs.

17 PRINCESS COLLECTIONS, INC., a
18 New York Corporation; SW GROUP
19 LLC, dba Shoppers World USA, a New
20 York Limited Liability Company;
21 FORMAN MILLS, INC., a New Jersey
corporation; and DOES 1-10,

22 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR
CONTRIBUTORY COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

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24
25 Plaintiff STANDARD FABRICS INTERNATIONAL, INC. (hereinafter
26 "STANDARD"), by and through its undersigned attorneys, hereby prays to this
27 honorable Court for relief based on the following:

JURISDICTION AND VENUE

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2 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
3 *et seq.*

4 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
5 1338 (a) and (b).

6 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
7 1400(a) in that this is the judicial district in which a substantial part of the acts and
8 omissions giving rise to the claims occurred.

PARTIES

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10 4. Plaintiff STANDARD FABRICS INTERNATIONAL, INC.
11 (“STANDARD”) is a corporation organized and existing under the laws of the State
12 of California with its principal place of business located in Los Angeles County.

13 5. Plaintiff is informed and believes and thereon alleges that Defendant
14 PRINCESS COLLECTIONS, INC. (“Princess”) is a corporation organized and
15 existing under the laws of the State of New York with its principal place of business
16 located at 253 36th Street, Brooklyn, New York 11232.

17 6. Plaintiff is informed and believes and thereon alleges that Defendant SW
18 GROUP LLC, doing business as Shoppers World USA (“Shoppers World”) is a
19 limited liability company organized and existing under the laws of the State of New
20 York with its principal place of business located at 9 East 40th Street, New York,
21 New York 10016.

22 7. Plaintiff is informed and believes and thereon alleges that Defendant
23 FORMAN MILLS, INC. (“Forman Mills”) is a corporation organized and existing
24 under the laws of the State of New Jersey with its principal place of business located
25 at 1070 Thomas Busch Memorial Hwy., Pennsauken, New Jersey 08110.

26 8. Plaintiff is informed and believes and thereon alleges that Defendant DOES
27 1-10, inclusive, is a manufacturer, and/or a vendor (and/or agent or employee to a
28

1 manufacturer or vendor) of garments to Defendant, which DOE Defendants have
 2 manufactured and/or supplied and are manufacturing and/or supplying fabrics and
 3 other product printed with Plaintiff's copyrighted designs (as hereinafter defined)
 4 without Plaintiff's knowledge or consent or have contributed to said infringement.
 5 The true names, whether corporate, individual or otherwise of Defendants DOES 1-
 6 10, inclusive, are presently unknown to Plaintiff, which therefore sues said
 7 Defendants by such fictitious names and will seek leave to amend this First
 8 Amended Complaint to show their true names and capacities when same have been
 9 ascertained.

10 9. Plaintiff is informed and believes and thereon alleges that at all times
 11 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
 12 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
 13 at all times acting within the scope of such agency, affiliation, alter-ego relationship
 14 and/or employment; and actively participated in or subsequently ratified and
 15 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of
 16 all the facts and circumstances, including, but not limited to, full knowledge of each
 17 and every violation of Plaintiff's rights and the damages to Plaintiff proximately
 18 caused thereby.

19 **CLAIMS RELATED TO 7766**

20 10. Prior to the conduct complained of herein, Plaintiff composed an original
 21 two-dimensional artwork for purposes of textile printing. It allocated this design
 22 Plaintiff's Internal Design Number 7766 ("Subject Design"). This artwork was a
 23 creation of Plaintiff and/or Plaintiff's design team, and is, and at all relevant times
 24 was, owned in exclusively by Plaintiff.

25 11. Plaintiff applied for and received a United States Copyright Registration
 26 for the Subject Design.

1 12. Prior to the acts complained of herein, Plaintiff sampled and sold fabric
2 bearing the Subject Design to numerous parties in the fashion and apparel industries.

3 13. Following this distribution of product bearing the Subject Design, Plaintiff
4 learned that Shoppers World, Forman Mills, and certain Doe Defendants created,
5 imported, manufactured, caused to be manufactured and/or otherwise distributed,
6 sold, and/or distributed garments and/or fabric featuring unauthorized reproductions
7 of the Subject Design or designs which are substantially similar to the Subject
8 Design (hereinafter “Infringing Product”). Said garments include but are not limited
9 to garments sold by:


10 a. Shoppers World under SKU 400074037443 and bearing the label
11 “Vintage USA,” indicating that it was manufactured by or for
12 Princess.

13 b. Forman Mills under Style No. LF/18A1-17-HBK-037P and bearing
14 the label “Vintage USA,” indicating that it was manufactured by or
15 for Princess.

16 14. A comparison of the Subject Design (left), and a sample Infringing Product
17 (right), as well as representative details from each, are set forth below; it is apparent
18 that the elements, composition, colors, arrangement, layout, and appearance of the
19 design are substantially similar:

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Subject Design	Sample Infringing Product
	

Subject Design Detail	Sample Infringing Product Detail
	

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FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against All Defendants, and Each)

15. Plaintiff repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this First Amended Complaint.

16. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Design including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of Subject Design by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) garments manufactured and sold to the public bearing fabric lawfully printed with the Subject Design by Plaintiff for its customers.

17. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor. Plaintiff is further informed and believes and thereon alleges that said Defendant(s) has an ongoing business relationship with Defendant retailer, and each of them, and supplied garments to said retailer, which garments infringed the Subject Design in that said garments were composed of fabric which featured an unauthorized print design(s) that were identical or substantially similar to the Subject Design, or were an illegal modification thereof.

18. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyright by creating, making and/or developing directly infringing and/or derivative works from the Subject Design and by producing, distributing and/or selling garments which infringe the Subject Design through a nationwide network of retail stores, catalogues, and through on-line websites.

1 19. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
2 damages to its business in an amount to be established at trial.

3 20. Due to Defendants' acts of infringement, Plaintiff has suffered general and
4 special damages in an amount to be established at trial.

5 21. Due to Defendants' acts of copyright infringement as alleged herein,
6 Defendants, and each of them, have obtained direct and indirect profits they would
7 not otherwise have realized but for their infringement of the Subject Design. As
8 such, Plaintiff is entitled to disgorgement of Defendant's profits directly and
9 indirectly attributable to Defendant's infringement of the Subject Design in an
10 amount to be established at trial.

11 22. Plaintiff is informed and believes and thereon alleges that Defendants, and
12 each of them, have committed copyright infringement with actual or constructive
13 knowledge of Plaintiff's rights such that said acts of copyright infringement were,
14 and continue to be, willful, intentional and malicious, subjecting Defendants, and
15 each of them, to liability for statutory damages under Section 504(c)(2) of the
16 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
17 infringement.

18 **SECOND CLAIM FOR RELIEF**

19 (For Vicarious and/or Contributory Copyright Infringement - Against All
20 Defendants)

21 23. Plaintiff repeats, realleges and incorporates herein by reference as though
22 fully set forth the allegations contained in the preceding paragraphs of this First
23 Amended Complaint.

24 24. Plaintiff is informed and believes and thereon alleges that Defendants
25 knowingly induced, participated in, aided and abetted in and profited from the illegal
26 reproduction and/or subsequent sales of garments featuring the Subject Design as
27 alleged herein.

1 25. Plaintiff is informed and believes and thereon alleges that Defendants, and
2 each of them, are vicariously liable for the infringement alleged herein because they
3 had the right and ability to supervise the infringing conduct and because they had a
4 direct financial interest in the infringing conduct.

5 26. By reason of the Defendants', and each of their, acts of contributory and
6 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
7 suffer substantial damages to its business in an amount to be established at trial, as
8 well as additional general and special damages in an amount to be established at
9 trial.

10 27. Due to Defendants', and each of their acts of copyright infringement as
11 alleged herein, Defendants, and each of them, have obtained direct and indirect
12 profits they would not otherwise have realized but for their infringement of Subject
13 Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly
14 and indirectly attributable to Defendants' infringement of the Subject Design, in an
15 amount to be established at trial.

16 28. Plaintiff is informed and believes and thereon alleges that Defendants, and
17 each of them, have committed acts of copyright infringement, as alleged above,
18 which were willful, intentional and malicious, which further subjects Defendants,
19 and each of them, to liability for statutory damages under Section 504(c)(2) of the
20 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
21 infringement. Within the time permitted by law, Plaintiff will make its election
22 between actual damages and statutory damages.

23 **PRAYER FOR RELIEF**

24 Wherefore, Plaintiff prays for judgment as follows:

25 **Against All Defendants**

26 29. With Respect to Each Claim for Relief

- a. That Defendants, their agents and employees be enjoined from infringing Plaintiff's copyrights in any manner, specifically those for the Subject Design;
- b. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff, plus any other monetary advantage gained by the Defendants through their infringement, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. § 101 et seq.;
- c. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act U.S.C. § 101 et seq.;
- d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- e. That Plaintiff be awarded the costs of this action; and
- f. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P. 38 and the 7th Amendment to the United States Constitution.

Dated: October 20, 2015 By: /s/ Scott A. Burroughs
Scott A. Burroughs, Esq.
Trevor W. Barrett, Esq.
DONIGER / BURROUGHS
Attorneys for Plaintiff
STANDARD FABRICS INT'L, INC.